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**IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE
TO COMBAT RACISM AND RACIAL DISCRIMINATION**

Contribution by the International Labour Organization*

* Reproduced as received in the language of submission only.

Contribution by the ILO to
the Decade Against Racism

Combatting Racism and Protection of Minorities by ILO Action

The ILO has been dedicated since its origins to the promotion of social justice. The Declaration of Philadelphia, incorporated in the ILO Constitution in 1944, contains the memorable language that:

Believing that experience has fully demonstrated the truth of the statement in the Constitution of the International Labour Organization that lasting peace can be established only if it is based on social justice, the Conference affirms that-

(a) all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity;

(b) the attainment of the conditions in which this shall be possible must constitute the central aim of national and international policy.

The ILO has two principal means of action that are brought into play in the fight against racism and racial discrimination.

I. International Labour Standards

A. Prevention of Discrimination

The ILO's action in this area has been through the adoption of international Conventions, and the supervision of their implementation by a highly-developed machinery which aims both at pointing out problems and at contributing to their solution. There are now 176 Conventions, which have received well over 6,300 ratifications by ILO Members. The ILO's technical assistance is closely linked to the aims contained in these instruments, and often is initiated in order to resolve problems arising in connection with implementation of Conventions, either before or after their ratification.

The ILO's principal Convention in this area is the **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)**, which by the end of January 1996 had been ratified by 120 States. Convention No. 111 requires all ratifying States to "declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof." It defines "discrimination" as "any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity and treatment in employment or occupation."

This instrument is, like most ILO Conventions, devoted to workers' rights in relation to employment and work. In spite of what might be thought to be a limited sphere of application, this focus makes it possible to have a significant impact on the situation of racial minorities more generally. Access to employment and to training, and the right to be treated equally and fairly at work, are the practical side of the right to be free from discrimination. If a minority can enjoy equality at the workplace, then it has moved much closer to true equality in a society as a whole. Indeed, one of the most potent indicators of inequality is the relative rates of employment, of pay, of education and training, which a minority group has attained compared to the dominant groups in the country.

This is particularly important in the light of the statement in the ILO Constitution - whose import has been proven repeatedly - that "there can be no lasting peace without social justice." Unequal treatment and a sentiment of exclusion foment social unrest, and if they can be eliminated or at least reduced, this increases the chances of balanced development.

What has been the effect of Convention No. 111's implementation? While this is difficult to answer any precision, recent examples can be given of how its use contributes to the protection of minority rights. In 1991, an ILO Commission of Inquiry was appointed to examine the Convention's application in *Romania* after the receipt of complaints of its violation as concerned Roma (gypsies) and Magyars (Romainians of Hungarian descent). The Commission made detailed findings concerning the systematic policy of discrimination on the basis of national extraction and race, and made recommendations on the measures that needed to be taken, including recommendations on the need for respect of minority tongues in balance with the national language. Since then, legislation on the rights of minorities has been adopted, a Council for National Minorities has been established, and redress has been made to a number of people against whom there had earlier been discrimination. The situation has remained difficult and the ILO continues to follow it, but definite improvements have been made in line with the Commission's recommendations and Convention No. 111.

In *South Africa*, following complaints on violations of the right of association of the country's Black majority (which for the purposes of the present paper is treated as a disadvantaged group assimilated to a minority), a Fact-Finding and Conciliation Commission on Freedom of Association was established. South Africa was not then a Member of the ILO, but it agreed to the inquiry and cooperated in it. Although the findings concentrated on freedom of association, dealt with under other ILO standards, the inquiry was based also on the fundamental rights to non-discrimination contained in the ILO Constitution and Convention No. 111. The pre-election Government followed up on numerous recommendations made by the FFCC. Once the Mandela Government came into power, South Africa rejoined the ILO and has continued to make use of the ILO's technical assistance to review the remaining legislative discrepancies and draft new labour legislation. While these efforts are now in the past, the Minister of Labour has indicated that Convention No. 111 will be ratified by the country in the coming months, indicating the importance attached by this country to the ratification and implementation of the Convention.

At its November-December 1995 session, the ILO Committee of Experts on the Application of Conventions and Recommendations carried out a Special Survey on Equality of Opportunity and Treatment (Report III (4)(B), International Labour Conference, 83rd Session, 1996). It noted in this survey that race is one of the grounds most frequently referred to in

national texts prohibiting discrimination, and noted several recent instances in which it had been added to national legislation on this subject. There were others in which institutions had recently been set up for combat racism and racial discrimination in employment, either at the government level or by the social partners. The Committee noted also that there is currently a legislative trend to make discriminatory practices based on race a punishable offense.

It is interesting to note in this regard that when the Committee of Experts examined the reports of all ratifying countries under this Convention at its November-December 1996 session, the majority of the many comments addressed to States related to discrimination on grounds other than race and colour. While this should not necessarily be taken to mean that racism or racial discrimination are lessening, this and other indications spelled out above may indicate that in most countries the legislative framework at least is in place to combat and eliminate this form of discrimination.

B. Indigenous and Tribal Peoples

As a complement to its work to combat discrimination, the ILO has also adopted the only international Conventions on the rights of indigenous and tribal peoples, which falls within the ambit of its work against racism. The Indigenous and Tribal Populations Convention, 1957 (No. 107) was a ground-breaking instrument, prepared with the cooperation of the entire UN system. It has been revised and updated by the Indigenous and Tribal Peoples Convention, 1989 (No. 169), also adopted with the help of the rest of the UN system and that of other organizations, as well as the participation of a large number of indigenous representatives. The new instrument removes the too-integrationist tone of the 1957 Convention, and requires ratifying States to cooperate and consult with indigenous and tribal peoples within their borders in an atmosphere of mutual respect.

Although Convention No. 169 so far has only 9 ratifications - a good rate of ratification for such a complex instrument - it has been having an impact far beyond ratifying States. The Convention, the debates it has stimulated, and the ILO's technical assistance have sparked improvements in a number of countries, and have stimulated a profound examination in others of the relations between States and their indigenous and tribal peoples.

Among ratifying States, several countries (including *Bolivia*, *Colombia* and *Mexico*) have for the first time recognized the special place of indigenous peoples among the national population, since ratifying the Convention. Others have adopted new legislation extending recognition of their rights, or have granted land rights not previously accorded. In *Norway*, the Government has asked the Sami Parliament to participate directly in the ILO supervisory process for Convention No. 169, an example of how recognition of local self-government by indigenous peoples can help these peoples to establish a working relationship with a State while also retaining their local autonomy.

The influence in States which have not yet ratified the Convention has been equally great, as in several cases it has led them to consider for the first time the measures which they should take to protect and preserve indigenous and tribal peoples inside their countries. See below, under Technical cooperation.

II. ILO Technical Cooperation

As indicated above, a fundamental concern of the ILO is that its standards be supported by the practical assistance the Organization can offer. In addition, the technical cooperation the ILO does carry out may not contradict the standards adopted by the Organization, and is most often used precisely for the purpose of improving implementation of ratified Conventions, or helping to create conditions under which they may be ratified.

Technical cooperation projects now being carried out in areas covered by these Conventions, in the area of protection of minorities, include the following.

In *Namibia*, thanks to Australian financing, the ILO is now working with the Government to institute an affirmative action policy in line with Convention No. 111. This two-year project is intended to overcome the lingering effects of apartheid by lowering barriers to equality of Blacks, disabled persons and women, and to promote their full incorporation into the national economy. The first phase has been completed (end of 1995), and work on the drafting of a Bill on affirmative action including national machinery, and training of national officials will begin shortly.

In *Brazil*, comments by the Committee of Experts under Convention No. 111, followed by discussions in the International Labour Conference in 1995, have led the Government to request the Office's technical assistance to put into place a workable policy on discrimination in the workplace. Although discussions began with relation to discrimination on the basis of sex, the solutions envisaged cover other grounds, including race and national origin. During 1996 the first phase of assistance will conclude with a national tripartite seminar to examine mechanisms for prevention of discrimination, and protection of disadvantaged groups of workers. This may be followed by assistance in the actual design and implementation of the policy, on the basis of Convention No. 111.

In Eastern Europe, the ILO is working on a manual intended to provide guidance to governments, and to workers' and employers' organizations, on the incorporation of equality considerations into personnel policy. This is of particular importance in this multilingual and multicultural region.

ILO technical assistance for indigenous and tribal peoples is linked to possible ratification and implementation of Convention No. 169, and is not limited to countries which have ratified it. For instance, in *Guatemala* the Government's promise to ratify and apply Convention No. 169 is a fundamental point in the peace agreement between the Government and the Indian rebel forces. The ILO has been assisting in the negotiation of different aspects of the peace agreement, and is ready to provide assistance in its implementation.

In the *Philippines*, development projects and policy advice by the ILO which are intended to lead to the eventual ratification of Convention No. 169, have already led the two rival indigenous movements to meet together for the first time, and to undertake talks with the Government. Technical cooperation for the development of production cooperatives for the indigenous peoples, are linked to discussions of the eventual ratification of the Convention.

In the *Russian Federation*, the ILO was invited to testify to the State Duma in 1994 on the possible ratification of Convention No. 169. In relation to preparations for ratification, the Government has asked for ILO assistance to gather and coordinate international aid for the indigenous peoples of the north of the country.